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Executive Registry

127-4547/129

United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, D.C. 20510

November 30, 1967

Honorable Richard Helms
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Helms:

Permit me to acknowledge receipt of your letter enclosing a summary of the bill to amend the Central Intelligence Agency Retirement Act.

I have reservations about some of the provisions of this bill even if comparable provisions are included in either the Foreign Service Retirement System or the regular Civil Service System. If the House passes the bill, I shall endeavor to consider it but I am unsure that it will be practical to consider the bill at this session.

With best wishes, I am

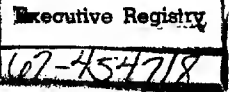
Sincerely,



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UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

November 17, 1937

Mr. L. K. White
Executive Director
Office of the Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. White:

I am replying to your letter of October 6, asking for the Commission's views on proposed CIA legislation.

The Commission previously commented on section 1 and sections 3 through 7 of the draft bill in our letter of January 12, 1967 to Mr. Rommel, Bureau of the Budget, in reporting on draft legislation subsequently introduced as H.R. 7315. In addition the new draft bill will:

1. Amend the CIA retirement plan to conform with the Civil Service retirement plan with respect to maximum annuity, i.e. 80% of average salary (section 2).
2. Provide for catch-up cost-of-living annuity increases for CIA employees retired prior to January 1, 1967 (section 8).
3. Exclude a CIA officer or employee from the provisions of subchapter V (relating to premium pay) of chapter 55 of title 5, U.S. Code (section 9).

The Commission has no objection to any of the provisions of this proposed legislation.

By direction of the Commission.

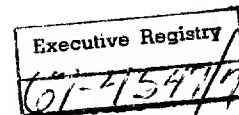
Sincerely yours,

John W. Macy, Jr.
John W. Macy, Jr.
Chairman

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THE MERIT SYSTEM—A GOOD INVESTMENT IN GOOD GOVERNMENT

21 NOV 1967



The Honorable Richard B. Russell
Chairman, Committee on Armed Services
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I refer to my letter of 12 January 1967, your reply of 20 January, and to our conversation of 17 November concerning proposed legislation to amend the Central Intelligence Agency Retirement Act. H. R. 16306, which was passed by the House of Representatives on 3 October 1966, contained a number of provisions relating to the administration of the Agency and its programs. In my letter of 12 January 1967 I advised you that we were then processing an identical legislative proposal for transmittal to the 90th Congress.

In order to simplify the proposed legislation, I now believe that it should be limited to those provisions related to the Central Intelligence Agency Retirement System. Accordingly, on 26 October 1967 Mr. Philbin introduced H. R. 13705. I enclose a summary explanation of the purposes of this bill. None of the benefits sets a precedent, similar benefits having been provided for employees in other Government retirement systems. The Civil Service Commission has reviewed the bill and has no objection to it.

As you know, I am very proud of the dedication and loyalty of our employees and earnestly hope that legislation ensuring benefits equivalent to those provided in other retirement systems can be enacted as soon as possible. I hope the Congress will consider this legislation during the current session and would deeply appreciate your assistance.

Respectfully,

/s/ Dick
Richard Helms
Director

Enclosure

OLC:JSW:mks (17 Nov 67)

Rewritten: ExDir:LKW:jrf (20 Nov 67)

Rewritten: DCI:ExDir:sbo (21 Nov 67) **Nov 21 4 50 PM '67**

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Executive Registry

67-4547/7

The Honorable Richard B. Russell
Chairman, Committee on Armed Services
United States Senate
Washington, D. C.

Dear Mr. Chairman:

Pursuant to our conversation on 17 November 1967, I would like to furnish additional information concerning our current legislative proposal.

In my letter to you of 12 January 1967, I advised that we were processing a legislative proposal identical to that passed by the House in 1966. Since then it appeared desirable to go forward only with those provisions primarily related to the CIA Retirement system. Accordingly, on 26 October 1967, Mr. Philbin introduced H. R. 13705. The various administrative and other fringe benefit provisions previously included have been omitted. I am enclosing for your assistance a summary explanation of the purposes of each of the provisions. We requested the Civil Service Commission to review this revised bill and we have now been advised that they have no objections.

None of the provisions for updating retirement benefits is precedent setting. Similar authorities have been extended to employees in other Government retirement systems. As you know, I am very proud of the dedication and loyalty of Agency employees. I feel they have done an outstanding job over the years in contributing to the overall task of this Government. In the interests of the morale of our people and affording them equitable treatment, I would hope the Congress would consider this legislation during the current session. I would deeply appreciate any assistance you can give us on this.

Respectfully,

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Richard Helms
Director

Enclosure

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OLC:JSW:mks (17 Nov 67)

SUMMARY OF H. R. 13705

"To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes."

The purpose of H. R. 13705 is to update the Central Intelligence Agency Retirement Act to bring it in line with legislation approved for Civil Service and Foreign Service employees. Authority is also provided to exempt Agency employees from the provisions of the Federal Employees Pay Act.

The following summarizes the effect of each section of H. R. 13705 and its statutory precedent.

Definition "Child"

Section 1

This section eliminates the requirement that a child be dependent upon a parent participant in order to receive a survivor annuity; raises from 21 to 22 the maximum age for receiving survivor annuity payments as a student; increases from 4 to 5 the maximum months absence from school which may be permitted without terminating such a survivor annuity; and permits a natural child of a deceased participant to share in the distribution of any money or deposit in the CIA Retirement and Disability Fund which belongs to the deceased participant. Identical changes in the Civil Service retirement system were approved by the 89th Congress.

Computation of Annuities

Section 2

This section increases the number of years service that may be included in computing the annuity of an individual from 35 to 40 years. This will permit payment of annuities up to the same ceiling that applies to Civil Service retirement annuities. An identical change in the Foreign Service system was approved by the Senate in June and is now pending before the House.

Widow's Annuity

Section 3

This section permits the annuity of a widow or a dependent widower to continue in the event of remarriage. This is identical to the law applicable to survivor annuitants under the Foreign Service retirement system. It is also similar to changes made by the 89th Congress in the Civil Service retirement system permitting the annuity to continue in the event of remarriage at age 60, which is ten years lower than the general mandatory retirement age of 70. The CIA and Foreign Service retirement systems provide for a general mandatory retirement age of 60, which is ten years lower than the mandatory retirement age under the Civil Service retirement system.

Child's Annuity

Section 4

This section makes a technical change to permit the resumption of a previously terminated child survivor annuity. An identical change in the Civil Service retirement system was approved by the 89th Congress.

Annuity Commencement Date

Section 5

This section makes a technical change to authorize the commencement of an annuity as soon as the individual enters a nonpay status rather than the first day of the following month. The Civil Service retirement system operates under an identical provision.

Transfer of Contributions

Section 6

This section permits the transfer to the CIA fund of the Government's contributions as well as the employee's contributions upon the employee's direct transfer from some other Government retirement system to the CIA retirement system. In addition, it authorizes the transfer from the CIA fund of the employee's and the Government's contributions whenever a participant by direct transfer becomes an employee under another Government retirement system. It is a new authority in Government. The Civil Service Commission is wholly in accord with this change.

Reemployment of Annuitants

Section 7

This section permits an annuitant retired under the Central Intelligence Agency Retirement Act to receive his full salary upon reemployment in another Federal Government service subject to a maximum limitation of combined salary and annuity equal to his salary at the time of retirement. When the ceiling is exceeded the annuity is reduced by the amount of the excess. When the salary of the new position equals or exceeds the salary at the time of retirement no annuity is paid and the individual is entitled to his full salary. This is identical to the Foreign Service retirement system provision. It is less liberal than the Military retirement provisions in that a retired Military reservist can retain both his civilian salary and his entire annuity and that a retired Regular officer can retain his salary plus the first \$2,000 of his annuity and 50 percent of the balance of it.

Cost-of-Living Adjustments

Section 8

This section brings the Agency's cost-of-living provision into line with provisions which currently apply to Civil Service and Military retirees. It increases existing annuities so that they are equivalent to increases already granted to Civil Service retirees. It also assures that future increases will be in phase with and equal to those granted under the Civil Service retirement system. Provision is made for offsetting cost-of-living increases in force and effect under current law prior to enactment of this bill. A similar change in the Foreign Service system was approved

by the Senate in June and is now pending before the House. With these changes the major retirement systems, Civil Service, Military, Foreign Service, and CIA, will have common cost-of-living adjustment of annuities provisions.

Federal Employees Pay Act

Section 9

This section specifically excludes officers and employees of the CIA from the premium pay provisions of the Federal Employees Pay Act of 1945, as amended. Thirteen specific exclusions now exist in the law. CIA officers and employees are now excluded from these premium pay provisions by regulation of the Civil Service Commission, but not by law. This section would exclude them by law.

67-45475

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filed in
P. 4

6 OCT 1967

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The Honorable John W. Macy, Jr., Chairman
Civil Service Commission
1900 E Street, N.W.
Washington, D. C. 20415

Dear John:

Reference is made to your letter of January 12, 1967, to Mr. Wilfred H. Rommel, Bureau of the Budget, reporting the views of the Civil Service Commission on proposed CIA legislation. On March 15, 1967, the legislation was introduced as H.R. 7315. Events have required a revision in the language of H.R. 7315 and we are enclosing a copy of a new draft in the interest of obtaining your views on the changes.

Section 208 of H.R. 7315 was designed to bring the CIA cost-of-living adjustment provision into line with the changes made by P.L. 89-205 in the comparable Civil Service provision. In accordance with Section 291 of the CIA Retirement Act, a cost-of-living increase was granted on April 1, 1967. This in turn required that a change be made in the language of Section 208 of H.R. 7315.

The adjusted language provides CIA retirees with annuity increases equal to the percentage increase in force and effect for Civil Service retirees under P.L. 87-793 and P.L. 89-205. It also assures that future increases will be in phase with those granted under P.L. 89-205.

We are also proposing an increase in the annuity ceiling of the CIA retirement system from 70 percent to 80 percent of average basic salary for the highest five consecutive years of service. This conforms with the annuity ceiling of the Civil Service retirement system and the proposed ceiling for the Foreign Service retirement system as recommended by the Cabinet Committee on Federal Staff Retirement Systems and recently approved by the Senate in passage of S. 2003.

The cost-of-living and annuity ceiling proposals are in line with our continuing efforts to keep pace with significant developments in the Federal retirement field.

H. R. 7315 also included a number of provisions pertaining to existing administrative authorities of the Agency. Certain members of the CIA Subcommittees in the Congress have suggested that a shorter measure would facilitate early consideration. Accordingly, all administrative provisions except the one dealing with the Federal Employee Pay Act have been deleted from the new draft.

The views of the Commission on the new draft bill, "To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes." are requested.

Sincerely,

/s/ L. K. White

L. K. White
Executive Director

Enclosure

CONCUR:

15/
General Counsel

3 OCT 1967
Date

15/
Deputy Director for Support

4 OCT 1967
Date

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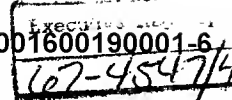
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OLC/LLM:raw (3 October 1967)



CIA



UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

January 12, 1967

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Bureau of the Budget

Dear Mr. Rommel:

This is in reply to your request for the views of the Civil Service Commission on a CIA draft bill, "To amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes."

The Commission has no objection to any of the provisions of the draft bill. In the interest, however, of conforming with title 5 of the United States Code, the following perfecting changes are recommended to the language of the draft bill:

1. In section 106, page 3, lines 17 and 18, and on page 4, lines 3 and 4, delete the words, "203(f) of the Annual and Sick Leave Act of 1951, as amended," and substitute for them the words, "section 6305 of title 5, United States Code."
2. In section 107, page 4, delete all the words on line 16 and substitute for them the words, "5731 of title 5, United States Code."
3. Section 301 should be deleted entirely and changed to read as follows:

Sec. 301. Section 5541(2) of title 5, United States Code, is amended by (1) striking out "or" at the end of paragraph (xii); (2) deleting the period at the end of paragraph (xiii) and inserting ";or"; and (3) adding the following new paragraph:
"(xiv) an employee of the Central Intelligence Agency."

By direction of the Commission:

Sincerely yours,

(Signed) JOHN W. MACY, JR.

Chairman

A BILL

To amend the Central Intelligence Agency Retirement Act of 1964
for Certain Employees, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SEC. 1. The Central Intelligence Agency Retirement
4 Act of 1964 for Certain Employees (78 Stat. 1043; 50

5 U.S.C. 403 note) is amended by striking subsection 204
6 (b) (3) and inserting the following in lieu thereof:

7 "(3) 'Child', for the purposes of sections 221 and 232
8 of this Act, means an unmarried child, including (i) an
9 adopted child, and (ii) a stepchild or recognized natural
10 child who lived with the participant in a regular parent-
11 child relationship, under the age of eighteen years, or such
12 unmarried child regardless of age who because of physical
13 or mental disability incurred before age eighteen is incapable
14 of self-support, or such unmarried child between eighteen

1 and twenty-two years of age who is a student regularly pur-
2 suing a full-time course of study or training in residence in
3 a high school, trade school, technical or vocational institute,
4 junior college, college, university, or comparable recognized
5 educational institution. A child whose twenty-second birth-
6 day occurs prior to July 1 or after August 31 of any calendar
7 year, and while he is regularly pursuing such a course of study
8 or training, shall be deemed for the purposes of this paragraph
9 and section 221 (e) of this Act to have attained the age of
10 twenty-two on the first day of July following such birthday.
11 A child who is a student shall not be deemed to have ceased
12 to be a student during any interim between school years if
13 the interim does not exceed five months and if he shows to
14 the satisfaction of the Director that he has a bona fide inten-
15 tion of continuing to pursue a course of study or training
16 in the same or different school during the school semester
17 (or other period into which the school year is divided)
18 immediately following the interim. The term 'child', for the
19 purposes of section 241, shall include an adopted child and
20 a natural child, but shall not include a stepchild."

1 SEC. 2. Section 221 (a) of the Central Intelligence
2 Agency Retirement Act (50 U.S.C. 403 note) is amended
3 by striking out "thirty-five" and substituting "forty".

4 SEC. 3. Section 221 (b) of the Central Intelligence
5 Agency Retirement Act (50 U.S.C. 403 note) is amended
6 by deleting the words "or remarriage" from the first sen-
7 tence, and section 232 (b) is amended by deleting the words
8 "or remarriage" from the second sentence.

9 SEC. 4 . Section 221 (e) of the Central Intelligence
10 Agency Retirement Act (50 U.S.C. 403 note) is amended
11 to read as follows:

12 " (e) The commencing date of an annuity payable to a
13 child under paragraph (c) or (d) of this section, or (c) or
14 (d) of section 232, shall be deemed to be the day after the
15 annuitant or participant dies, with payment beginning on
16 that day or beginning or resuming on the first day of the
17 month in which the child later becomes or again becomes a
18 student as described in section 204 (b) (3), provided the
19 lump-sum credit, if paid, is returned to the fund. Such
20 annuity shall terminate on the last day of the month before

1 (1) the child's attaining age eighteen unless he is then a
2 student as described or incapable of self-support, (2) his be-
3 coming capable of self-support after attaining age eighteen
4 unless he is then such a student, (3) his attaining age
5 twenty-two if he is then such a student and not incapable of
6 self-support, (4) his ceasing to be such a student after at-
7 taining age eighteen unless he is then incapable of self-
8 support, (5) his marriage, or (6) his death, whichever
9 first occurs."

10 SEC. 5. Section 221 of the Central Intelligence
11 Agency Retirement Act (50 U.S.C. 403 note) is amended
12 by deleting the last two sentences of subsection (f), and
13 adding the following new paragraphs (g) and (h) :
14 " (g) Except as otherwise provided, the annuity of a
15 participant shall commence on the day after separation from
16 the service, or on the day after salary ceases and the partici-
17 pant meets the service and the age or disability requirements
18 for title thereto. The annuity of a participant under section
19 234 shall commence on the day after the occurrence of the
20 event on which payment thereof is based. An annuity other-

1 wise payable from the fund allowed on or after date of enact-
2 ment of this provision shall commence on the day after the
3 occurrence of the event on which payment thereof is based.

4 " (h) An annuity payable from the fund on or after date
5 of enactment of this provision shall terminate (1) in the case
6 of a retired participant, on the day death or any other ter-
7 minating event occurs, or (2) in the case of a survivor, on
8 the last day of the month before death or any other terminating
9 event occurs."

10 SEC. 6. Section 252 of the Central Intelligence
11 Agency Retirement Act (50 U.S.C. 403 note) is amended
12 by deleting subsection (c) (1); renumbering subsections
13 (c) (2) and (c) (3) to read (c) (3) and (c) (4); and in-
14 serting the following new subsections (c) (1) and (c) (2) :

15 " (c) (1) If an officer or employee under some other
16 Government retirement system becomes a participant in the
17 system by direct transfer, the Government's contributions
18 under such retirement system on behalf of the officer or
19 employee shall be transferred to the fund and such officer or
20 employee's total contributions and deposits, including inter-
21 est accrued thereon, except voluntary contributions, shall be

1 transferred to his credit in the fund effective as of the date
2 such officer or employee heretofore or hereafter becomes a
3 participant in the system. Each such officer or employee
4 shall be deemed to consent to the transfer of such funds and
5 such transfer shall be a complete discharge and acquittance
6 of all claims and demands against the other Government
7 retirement fund on account of service rendered prior to becoming
8 a participant in the system.

9 "(c) (2) If a participant in the system becomes an
10 employee under another Government retirement system by
11 direct transfer to employment covered by such system, the
12 Government's contributions to the fund on his behalf may be
13 transferred to the fund of the other system and his total con-
14 tributions and deposits, including interest accrued thereon,
15 except voluntary contributions, may be transferred to his
16 credit in the fund of such other retirement system at the
17 request of the officer or employee effective as of the date he
18 becomes eligible to participate in such other retirement sys-
19 tem. Each such officer or employee in requesting such
20 transfer shall be deemed to consent to the transfer of such

1 funds and such transfer shall be a complete discharge and
2 acquittance of all claims and demands against the fund on
3 account of service rendered prior to his becoming eligible for
4 participation in such other system."

5 SEC. 7. Section 273 of the Central Intelligence Agency
6 Retirement Act (50 U.S.C. 403 note) is amended by delet-
7 ing subsection (a) ; renumbering subsection (b) to read (c) ;
8 and inserting the following new subsections (a) and (b) :

9 " (a) Notwithstanding any other provision of law, any
10 annuitant who has retired under this Act and who is reem-
11 ployed in the Federal Government service in any appointive
12 position either on a part-time or full-time basis shall be
13 entitled to receive the salary of the position in which he is
14 serving plus so much of his annuity payable under this Act
15 which when combined with such salary does not exceed
16 during any calendar year the basic salary such officer or
17 employee was entitled to receive on the date of his retire-
18 ment from the Agency. Any such reemployed officer or
19 employee who receives salary during any calendar year in
20 excess of the maximum amount which he may be entitled

1 to receive under this paragraph shall be entitled to such
2 salary in lieu of benefits hereunder.

3 " (b) When any such annuitant is reemployed, he shall
4 notify the Director of Central Intelligence of such reem-
5 ployment and shall provide all pertinent information relating
6 thereto."

7 SEC. 8. Section 291 of the Central Intelligence Agency
8 Retirement Act (50 U.S.C. 403 note) is amended to read as
9 follows:

10 "SEC. 291. (a) On the basis of determinations made by
11 the Director pertaining to per centum change in the price index,
12 the following adjustments shall be made:

13 " (1) Each annuity payable from the fund on January 1,
14 1967, shall be increased on that date by (a) 12.4 per centum
15 for annuities which commence on or before January 1, 1966,
16 or (b) 4.9 per centum for annuities which commence on or
17 between January 2, 1966, and January 1, 1967.

18

19

20

1 " (2) Each month beginning with November 1966 the
2 Director shall determine the per centum change in the price
3 index. Effective the first day of the third month which begins
4 after the price index shall have equaled a rise of at least
5 3 per centum for three consecutive months over the price
6 index for the base month, each annuity payable from the
7 fund which has a commencing date not later than such effec-
8 tive date shall be increased by the per centum rise in the
9 price index (calculated on the highest level of the price
10 index during the three consecutive months) adjusted to the
11 nearest one-tenth of 1 per centum.

12 " (b) Eligibility for an annuity increase under this
13 section shall be governed by the commencing date of each
14 annuity payable from the fund as of the effective date of an
15 increase, except as follows:

16 "(1) Effective from its commencing date, an annuity
17 payable from the fund to an annuitant's survivor (other than
18 a child entitled under section 221 (c)), which annuity
19 commences the day after annuitant's death and after January
20 1, 1967, shall be increased by the total per centum increase

1 the annuitant was receiving under this section at death;
2 or if death occurred between January 1, 1967, and date of
3 enactment, the per centum increase the annuitant would
4 have received.

5 " (2) Effective from its commencing date, an annuity
6 payable from the fund to a child under section 221 (c), which
7 annuity commences the day after annuitant's death and after
8 January 1, 1967, shall be increased by (a) 2 per centum if
9 the annuity from which it is derived commenced on or before
10 January 1, 1966, or (b) 1 per centum if the annuity from
11 which it is derived commenced on or between January 2,
12 1966, and January 1, 1967.

13 " (3) For the purposes of computing an annuity which
14 commences after January 1, 1967, to a child under section
15 221 (c), the items \$600, \$720, \$1,800, and \$2,160 appearing
16 in section 221 (c) shall be increased by 10.2 per centum plus
17 the total per centum increase allowed and in force under
18 section 291 (a) (2) for employee annuities, and, in case of
19 a deceased annuitant, the items 40 per centum and 50 per
20 centum appearing in section 221 (c) shall be increased

1 by the total per centum increase allowed and in force
2 under this section to the annuitant at death; or if death
3 occurred between January 1, 1967, and date of enactment,
4 the per centum increase the annuitant would have received.

5 " (c) Any annuity increased under this section shall
6 be decreased by the amount of increase in force and effect
7 with respect to that annuity under section 291 prior to the
8 date of enactment of this Act.

9 " (d) The term 'price index' shall mean the Consumer
10 Price Index (all items--United States city average) published
11 monthly by the Bureau of Labor Statistics. The term 'base
12 month' shall mean the month of October 1966 for the first
13 increase under section 291 (a) (2) and thereafter the month
14 for which the price index showed a per centum rise forming
15 the basis for a cost-of-living annuity increase.

16 " (e) No increase in annuity provided by this section
17 shall be computed on any additional annuity purchased at
18 retirement by voluntary contributions.

19 " (f) The monthly installment of annuity after adjust-
20 ment under this section shall be fixed at the nearest dollar,
21 except that such installment shall after adjustment reflect
22 an increase of at least one dollar. "

1 SEC. 9. Section 5541 (2) of title 5, United States
2 Code, is amended by (1) striking out "or" at the end of
3 paragraph (xii) ; (2) deleting the period at the end of
4 paragraph (xiii) and inserting "; or"; and (3) adding the
5 following new paragraph: "(xiv) an officer or employee
6 of the Central Intelligence Agency."

Selection of Participants for the CIA Retirement and Disability System

During the hearings with both the House Armed Services Subcommittee and with staff officers of the Senate Armed Services Subcommittee, great concern was expressed regarding the number of people who might be designated to participate in the CIA Retirement and Disability System which was, at the time, more liberal than the standard Civil Service Retirement System. During the hearings with the House Subcommittee consideration was given to placing a numerical limitation on the number of participants we might have -- in our testimony we suggested that perhaps 30 per cent of the total Agency employee population would be eligible. We argued that for security reasons, it would be unwise to place an absolute limit on the number of participants with the result that our bill was passed by the House as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (underscoring supplied).

Our initial bill left the selection of participants to the discretion of the Director. When the bill was with the House Rules Committee, we were obliged to insert the following language: Section 203 - "The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment..."

(EXECUTIVE SECRETARY FILE

P-1.4

The staff officer with whom we dealt on the Senate side was also concerned about the possibility that the broad language of the Act would eventually result in designation of all Agency employees as members of this special retirement system. He accepted our arguments against placing a numerical limitation on the number of participants and required instead a limit on the number of retirees. The limitation on the number of retirees was fixed at 400 through 30 June 1969 and a limit of an additional 400 from 1 July 1969 through 30 June 1974. While the limitation of 400 for the initial five year period, i.e., 30 June 1969, gave us a margin of error over our estimates for the period, we mildly protested the 400 limitation for the second five year period; the response we received was that we could seek a change if subsequent activity indicated an increase should be necessary.

Concerning the definition of the category of employees who may be designated participants, we had great difficulty in explaining this matter to the Congress. The fact is that we have no conveniently labeled category of employees who would automatically qualify for coverage. Our intention was to extend this retirement program to personnel whose careers involved substantial periods of overseas service or service under comparable conditions in the United States. The closest we have yet come to defining such service is the following statement in [REDACTED]

[REDACTED]

"(a) under conditions of employment which include a demonstrable hazard to life or health in the conduct or support of covert action operations abroad, or espionage and counter-intelligence activities abroad, or other intelligence activities abroad; or

"(b) under conditions of employment requiring the continuing practice of most stringent security and covert tradecraft procedures to maintain personal cover in the conduct or support of covert action operations or espionage and counter-intelligence activities abroad; or

"(c) on a continuing basis which would place the individual at a distinct disadvantage in obtaining other employment either because (1) the skills and knowledge are unique to the clandestine activities of the Agency and are not in demand elsewhere, or (2) the duties are so highly classified that his experience cannot be described in sufficient detail to demonstrate his qualifications adequately to a prospective employer."

In fact, the CIA Retirement Board has adopted a general policy of crediting any and all overseas service but has had considerable difficulty in establishing exact rules for determining whether or not domestic service is qualifying. At present, any case involving the credit of domestic service is individually considered by the Board and, if retirement is involved, requires the approval of the Director of Central Intelligence.

At the present time we have employee participants in the System. We have annuitants (including survivor annuitants).

It may be of interest to note that prospective participants in the CIA Retirement and Disability System are nominated by the heads of their Career Service in accordance with the eligibility criteria described above. For those who have less than 15 years of Agency service, there is a requirement for a review of the individual's career at 5 year intervals to insure that he is indeed performing qualifying service in the minimum required amounts. A participant who fails to meet these standards is removed from the CIA Retirement and Disability System and returned to the Civil Service System.

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Executive Registry

107-45472

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MEMORANDUM FOR: Deputy Director of Central Intelligence

SUBJECT: Proposed Agency Legislation to Revise the CIA Retirement Act of 1964 and the CIA Act of 1949

1. This is in response to your memorandum of 27 September providing additional comment on the proposed Agency legislation.
2. With regard to the actuarial implications in terms of money, where a widow's annuity is continued after remarriage, the Director of Personnel is now checking with the Civil Service Commission and the Department of State in a new attempt to forecast possible remarriage potential among survivor spouses covered under the CIA Act. When this information is received an attempt will be made to project a cost, if any, for the item. As for the discussion or argument set forth in the text that the wife has "earned" her annuity, this was the position taken by the Department of State in their original presentation before the Congress and has gained acceptance additionally from our earlier presentations before the House Committee. The question of need for support by a widow has been considered to be inherent in the "earned annuity" approach. It does seem worthwhile to stay with it.
3. With regard to Section 4 relating to termination of child annuity upon marriage of the child, the mere act of marriage as you indicate does not assure the capability of self-support. However, unless incapable of self-support, a child 18 years or over is not recognized as a dependent in Federal legislation for a variety of purposes including Income Tax, Social Security benefits, survivor annuity, etc. This is an almost uniformly applied policy. It is noted that the language in Section 4 actually is not restrictive of this policy, but makes an exception to it to reward

1.4

educational efforts, as has been done for Civil Service annuitants. We would be reaching beyond established policy not only in retirement acts, but others to continue the annuity after such an event. We do not have precedent nor do we feel we could justify being more liberal than we have been with regard to termination of the dependent child's annuity.

4. The language used to describe termination of annuities under Section 5 is founded in the language used for other retirement acts and has had a good history of usage and of interpretation by the General Accounting Office. This is a technical type of provision and deals for the most part only with the payroll problem of determining the dates for initiation or cessation of payments. The language "other terminating events" which you noted is not operative language in determining benefits under the act. The benefits themselves are determined wholly in other provisions.

5. With regard to Section 9 concerning advisory personnel and the National Security Act limitation on the rate of compensation payment to advisory personnel, I talked to Mr. Robert F. Keller, General Counsel to the Comptroller General, on Wednesday. Mr. Keller agreed that every other agency in Government had authority to exceed the \$50 rate set forth in the National Security Act, but is of the opinion that our general authority could not overcome such a specific limitation. (See attached memorandum of 27 September.) As originally presented to the Congress, the bill simply removed the \$50 limitation. The full Armed Services Committee, in their consideration, however, adopted the view that this would be hard to defend on the floor of the House and urged the \$100 limitation. In consequence, I feel the provision should remain in its present form, but that consideration be given to suggesting in our discussion before the Committee that the wording of the limitation be changed to provide for payment at the upper limit of the General Schedule, which at the present time is \$99, the daily rate of a G.S. 18. Such a provision would allow necessary increase in per diem payments to consultants as Federal salaries are advanced, without need for further amendment.

Attachment

Lawrence R. Houston
General Counsel

OCT 3 15 50



27 September 1967

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT: Limitation on Consultant Fees

1. This memorandum is for information.

2. On 27 September I talked to Mr. Robert F. Keller, General Counsel to the Comptroller General, about our problem with the provision in section 303(a) of the National Security Act of 1947, as amended, which states that part-time advisory personnel may receive compensation at a rate not to exceed \$50.00 for each day of service. Mr. Keller agreed that every other agency in Government had authority to exceed this rate by a considerable amount. I asked if we could pay higher rates under our general authorities given to us "notwithstanding the provisions of any other law" in the Central Intelligence Agency Act, which was passed after the National Security Act. Mr. Keller is of the opinion that our general authorities could not overcome such a specific prohibition, particularly referring to the receipt of compensation, and that he would have to so rule if formally approached. He, therefore, felt we should include a repeal provision in our legislative proposals.

s/

LAWRENCE R. HOUSTON
General Counsel

cc: DDS

✓ Legislative Counsel

27 September 1967

MEMORANDUM FOR: General Counsel

SUBJECT : Comments on the Bill to Revise the
CIA Retirement Act of 1964 and the
CIA Act of 1949

1. Further to our conversations of the other day, I have some additional comment on subject legislation.

2. It seems to me that the argument on the deletion of the words "or re-marriage" from Section 3 is somewhat weak but I don't contest the proposed change. I would, however, raise two questions with regard to it. First, what are the actuarial implications in terms of money arising from this deletion? Second, why is not some wording that would delineate the conditions of need for support be preferable so as not to have to fall back on the rather vague argument that the wife has "earned" the annuity on the grounds that she is a necessary element in our personnel team? It seems to me that if one were to accept that argument, one would then be compelled to argue that we ought not to hire bachelors or single women.

3. With regard to Section 4, the language is rather carefully couched to convey the impression that the child's annuity is conditioned upon his presumed ability for self-support. This is reasonable. However, one of the terminating conditions in both the present CIA Retirement Act and the proposed changes thereto is the annuitant's marriage. I don't agree that the mere act of marriage necessarily presumes the capability of self-support. Further, this terminating provision is at variance with the very argument advanced for continuing the widow's annuity in case of her re-marriage since it could be argued that if she is a necessary element in the personnel team, the family as a whole is also, and the child is part of this entity.

4. Under Section 5 there are described provisions for termination of the annuity in the case of a retired participant "on the day death or any other terminating event occurs". It seems to me that this provision

could cause trouble unless "other terminating events" are defined. For example, death is a permanent terminating event whereas re-employment is a temporary terminating event that might be made permanent under some interpretations of this provision.

5. Lastly, you have already heard my arguments on the proposed revision to Section 5 of the Central Intelligence Act of 1949 and I have heard some of your counter-arguments. My uninformed opinion is that there is no bar to payment of such sums as the DCI may determine are appropriate (using Section 8 of the CIA Act) and that the Government would have no way to recover from the recipient sums in excess of \$50 a day as provided by the National Security Act of 1947 unless it (a) knew what such sums were, and (b) the recipient were otherwise receiving sums from the U.S. Government which the General Accounting Office could withhold. Therefore, I feel we should inquire most carefully into our authorities on this point before requesting a change to the CIA Act. Finally, in this regard, I don't see why we should specify sums "not to exceed \$100 per day" simply because that is provided elsewhere in the law of the land. Obviously the reason the sum was changed from \$50 in one Act to \$100 in a later Act for other activities of the Government is that the going prices on good consultative assistants went up. Things being what they are, they are apt to go up again and \$100 may not be enough. Therefore, it would appear to me that some general wording that specifies the going rate under existing provisions of law for other activities of the Government be permitted.

SIGNED

Rufus L. Taylor
Vice Admiral, U. S. Navy
Deputy Director

cc: Executive Director-Comptroller

RT/mfb
Orig - General Counsel
lcc - ExDir-Dompt.
✓lcc - ER
lcc - DDCI #5 file

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CENTRAL INTELLIGENCE AGENCY
OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Director of Personnel		
2			
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

Please prepare a brief sheet answering Admiral Taylor's questions. Include as a minimum what constitutes qualifying service, the 800 ten-year limitation, and the number of participants actually in the program as of now.

Please expedite.

LKW
LKW

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Executive Director - Comptroller	27 Sep 67
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CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	Executive Director/Comptroller	15 Nov.	W
2	The Director		
3	Legislative Counsel 7 D 01		
4	(For Hand Carry)		
5			
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: Attached is a proposed letter for the Director's signature to Mr. Philbin requesting his assistance in scheduling our legislation for hearing before his Subcommittee. As I mentioned earlier, Mr. Philbin advised me that he would do everything possible and assured me that he was all in favor of getting this going. Recommend signature.			
<i>Events have over-taken</i>			
		John S. Warner	
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Legislative Counsel 7 D 01 Hqs			3 Nov 67
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NAME AND ADDRESS	DATE	INITIALS
The Director		
<i>[Redacted]</i>	<i>Ex. Dir. 1 Dec</i>	
<i>John Warner</i>		

ACTION	PREPARE REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

John: This sounds like bad news. What do you suggest we do now?

18/25th

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APPROVAL		DISPATCH		RECOMMENDATION			
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<p>Remarks: DDCI handwritten note:</p> <p>"I note that in the argumentation for revision of the CIA Retirement Act of 1964 we state that only a few CIA employees are included the majority being covered by Civil Service. What category constitutes those few and how is it determined who fits in it?"</p> <p>/s/ T</p>							
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FORM NO. 2-61

237

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I note that in the argumentation for revision of the CIA Retirement Act of 1964 we state that only a few CIA employees are included the majority being covered by Civil Service. What category constitutes those few and how is it determined who fits in it? Y

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

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